

SECOND REGULAR SESSION

# HOUSE BILL NO. 1690

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SMITH.

Read 1<sup>st</sup> time January 29, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3972L.011

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### AN ACT

To repeal sections 260.370, 260.375, 319.125, 319.127, 319.137 as enacted by house committee substitute for senate substitute for senate bill no. 3, eighty-eighth general assembly, first regular session, 319.137 as enacted by house bill no. 251, eighty-eighth general assembly, first regular session, and 319.139, RSMo, and to enact in lieu thereof seven new sections relating to hazardous waste management.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 260.370, 260.375, 319.125, 319.127, 319.137 as enacted by house committee substitute for senate substitute for senate bill no. 3, eighty-eighth general assembly, first regular session, 319.137 as enacted by house bill no. 251, eighty-eighth general assembly, first regular session, and 319.139, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 260.370, 260.375, 319.125, 319.127, 319.137, 319.139, and 319.140, to read as follows:

260.370. 1. Where proven technology is available and the economic impact is reasonable, pursuant to rules and regulations promulgated by the commission, the hazardous waste management commission shall encourage that every effort is made to effectively treat, recycle, detoxify, incinerate or otherwise treat hazardous waste to be disposed of in the state of Missouri in order that such wastes are not disposed of in a manner which is hazardous to the public health and the environment. Where proven technology is available with respect to a specific hazardous waste and the economic impact is reasonable, pursuant to rules and regulations promulgated by the commission, the hazardous waste management commission shall direct that disposal of the specific hazardous wastes using land filling as the primary method is

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

10 prohibited.

11       2. The hazardous waste management commission shall, by rules and regulations,  
12 categorize hazardous waste by taking into account toxicity, persistence and degradability in  
13 nature, potential for accumulation in tissue, and other related factors such as flammability,  
14 corrosiveness and other hazardous characteristics. The commission shall by rules and  
15 regulations further establish within each category the wastes which may or may not be disposed  
16 of through alternative hazardous waste management technologies including, but not limited to,  
17 treatment facilities, incinerators, landfills, landfarms, storage facilities, surface impoundments,  
18 recycling, reuse and reduction. The commission shall specify, by rule and regulation, the  
19 frequency of inspection for each method of hazardous waste management and for the different  
20 waste categories at hazardous waste management sites. The inspection may be daily when the  
21 hazardous waste management commission deems it necessary. The hazardous waste  
22 management commission shall specify, by rule, fees to be paid to the department by owners or  
23 operators of hazardous waste facilities who have obtained, or are required to obtain, a hazardous  
24 waste facility permit and who accept, on a commercial basis for remuneration, hazardous waste  
25 from off-site sources, but not including wastes generated by the same person at other sites  
26 located in Missouri or within a metropolitan statistical area located partially in Missouri and  
27 owned or operated by the same person and transferred to the hazardous waste facility, for  
28 treatment, storage or disposal, for inspections conducted by the department to determine  
29 compliance with sections 260.350 to 260.430 and the regulations promulgated thereunder. Funds  
30 derived from these inspection fees shall be used for the purpose of funding the inspection of  
31 hazardous waste facilities, as specified in subsection 3 of section 260.391. Such fees shall not  
32 exceed twelve thousand dollars per year per facility and the commission shall establish a  
33 graduated fee scale based on the volume of hazardous waste accepted with reduced fees for  
34 facilities accepting smaller volumes of hazardous waste. The department shall furnish, upon  
35 request, to the person, firm or corporation operating the hazardous waste facility a complete, full  
36 and detailed accounting of the cost of the department's inspections of the facility for the  
37 twelve-month period immediately preceding the request within forty-five days after receipt of  
38 the request. Failure to provide the accounting within forty-five days shall require the department  
39 to refund the inspection fee paid during the twelve-month-time period.

40       3. In addition to any other powers vested in it by law, the commission shall have the  
41 following powers:

42       (1) From time to time adopt, amend or repeal, after due notice and public hearing,  
43 standards, rules and regulations to implement, enforce and carry out the provisions of sections  
44 260.350 to 260.430 and any required of this state by any federal hazardous waste management  
45 act and as the commission may deem necessary to provide for the safe management of hazardous

46 wastes to protect the health of humans and the environment. In implementing this subsection,  
47 the commission shall consider the variations within this state in climate, geology, population  
48 density, quantities and types of hazardous wastes generated, availability of hazardous waste  
49 facilities and such other factors as may be relevant to the safe management of hazardous wastes.  
50 Within two years after September 28, 1977, the commission shall adopt rules and regulations  
51 including the following:

52 (a) Rules and regulations establishing criteria and a listing for the determination of  
53 whether any waste or combination of wastes is hazardous for the purposes of sections 260.350  
54 to 260.430, taking into account toxicity, persistence and degradability in nature, potential for  
55 accumulation in tissue, and other related factors such as flammability, corrosiveness and other  
56 hazardous characteristics;

57 (b) Rules and regulations for the storage, treatment and disposal of hazardous wastes;

58 (c) Rules and regulations for the transportation, containerization and labeling of  
59 hazardous wastes, which shall be consistent with those issued by the Missouri public service  
60 commission;

61 (d) Rules and regulations establishing standards for the issuance, modification,  
62 suspension, revocation or denial of such licenses and permits as are consistent with the purposes  
63 of sections 260.350 to 260.430;

64 (e) Rules and regulations establishing standards and procedures for the safe operation  
65 and maintenance of hazardous waste facilities in order to protect the health of humans and other  
66 living organisms;

67 (f) Rules and regulations listing those wastes or combinations of wastes, for which  
68 criteria have been established under paragraph (a) of this subdivision and which are not  
69 compatible and which may not be stored or disposed of together;

70 (g) Rules and regulations establishing procedures and requirements for the reporting of  
71 the generation, storage, transportation, treatment or disposal of hazardous wastes;

72 (2) Adopt and publish, after notice as required by the provisions of chapter 536, RSMo,  
73 pertaining to administrative rulemaking, and public hearing, a state hazardous waste management  
74 plan to provide for the safe and effective management of hazardous wastes within this state. This  
75 plan shall be adopted within two years after September 28, 1977, and revised at least once every  
76 five years thereafter;

77 (3) Hold hearings, issue notices of hearings and subpoenas requiring the attendance of  
78 witnesses and the production of evidence, administer oaths and take testimony as the commission  
79 deems necessary to accomplish the purposes of sections 260.350 to 260.430 or as required by  
80 any federal hazardous waste management act. Unless otherwise specified in sections 260.350  
81 to 260.430, any of these powers may be exercised on behalf of the commission by any members

82 thereof or a hearing officer designated by it;

83 (4) Grant individual variances in accordance with the provisions of sections 260.350 to  
84 260.430;

85 (5) Make such orders as are necessary to implement, enforce and effectuate the powers,  
86 duties and purposes of sections 260.350 to 260.430;

87 **(6) From time to time adopt, amend, or repeal, after due notice and public hearing,**  
88 **standards, rules and regulations to implement, enforce, and carry out the provisions of**  
89 **sections 319.100 to 319.139, RSMo, subtitle I of the federal Resource Conservation and**  
90 **Recovery Act of 1976 (P.L. 94-580), and as the commission may deem necessary to protect**  
91 **human health and the environment. Rules and regulations promulgated by the United**  
92 **States Environmental Protection Agency under subtitle I and codified in Title 40, part 280**  
93 **of the Code of Federal Regulation may be incorporated by the commission by reference.**

94 4. No rule or portion of a rule promulgated under the authority of sections 260.350 to  
95 260.480 and sections 260.565 to 260.575 shall become effective unless it has been promulgated  
96 pursuant to the provisions of section 536.024, RSMo.

260.375. The department shall:

2 (1) Exercise general supervision of the administration and enforcement of sections  
3 260.350 to 260.430 and all standards, rules and regulations, orders or license and permit terms  
4 and conditions adopted or issued pursuant to sections 260.350 to 260.430;

5 (2) Develop and implement programs to achieve goals and objectives set by the state  
6 hazardous waste management plan;

7 (3) Retain, employ, provide for and compensate, within appropriations available therefor,  
8 such consultants, assistants, deputies, clerks and other employees on a full- or part-time basis as  
9 may be necessary to carry out the provisions of sections 260.350 to 260.430 and prescribe the  
10 times at which they shall be appointed and their powers and duties;

11 (4) Budget and receive duly appropriated moneys for expenditures to carry out the  
12 provisions of sections 260.350 to 260.430;

13 (5) Accept, receive and administer grants or other funds or gifts from public and private  
14 agencies including the federal government for the purpose of carrying out any of the functions  
15 of sections 260.350 to 260.430. Funds received by the department pursuant to this section shall  
16 be deposited with the state treasurer and held and disbursed by him or her in accordance with the  
17 appropriations of the general assembly;

18 (6) Provide the commission all necessary support the commission may require to carry  
19 out its powers and duties including, but not limited to: keeping of records of all meetings;  
20 notification, at the direction of the chairman of the commission, of the members of the  
21 commission of the time, place and purpose of each meeting by written notice; drafting, for

22 consideration of the commission, a state hazardous waste management plan and standards, rules  
23 and regulations necessary to carry out the purposes of sections 260.350 to 260.430; and  
24 investigation of petitions for variances and complaints made to the commission and submission  
25 of recommendations thereto;

26 (7) Collect and maintain, and require any person to collect and maintain, such records  
27 and information of hazardous waste generation, storage, transportation, resource recovery,  
28 treatment and disposal in this state, including quantities and types imported and exported across  
29 the borders of this state and install, calibrate and maintain and require any person to install,  
30 calibrate and maintain such monitoring equipment or methods, and make reports consistent with  
31 the purposes of sections 260.350 to 260.430;

32 (8) Secure necessary scientific, technical, administrative and operational services,  
33 including laboratory facilities, by contract or otherwise;

34 (9) Develop facts and make inspections and investigations, including gathering of  
35 samples and performing of tests and analyses, consistent with the purposes of sections 260.350  
36 to [260.430] **260.960**, and in connection therewith, to enter or authorize any representative of the  
37 department to enter, at all reasonable times, in or upon any private or public property for any  
38 purpose required by sections 260.350 to [260.430] **260.960** or any federal hazardous waste  
39 management act. Such entry may be for the purpose, without limitation, of developing or  
40 implementing standards, rules and regulations, orders or license or permit terms and conditions,  
41 of inspecting or investigating any records required to be kept by sections 260.350 to 260.430 or  
42 any license or permit issued pursuant to sections 260.350 to [260.430] **260.960** or any hazardous  
43 waste management practice which the department or commission believes violates sections  
44 260.350 to [260.430] **260.960**, or any standard, rule or regulation, order or license or permit term  
45 or condition adopted or issued pursuant to sections 260.350 to [260.430] **260.960**, or otherwise  
46 endangers the health of humans or the environment, or the site of any suspected violation of  
47 sections 260.350 to [260.430] **260.960**, or any standard, rule or regulation, order, [or] license or  
48 permit term or condition, **control, or engineering control** adopted or issued pursuant to sections  
49 260.350 to [260.430] **260.960**. The results of any such investigation shall be reduced to writing  
50 and shall be furnished to the owner or operator of the property. No person shall refuse entry or  
51 access requested for the purpose of inspection pursuant to this subdivision to an authorized  
52 representative of the department or commission who presents appropriate credentials, nor  
53 obstruct or hamper the representative in carrying out the inspection. A suitably restricted search  
54 warrant, upon a showing of probable cause in writing and upon oath, shall be issued by any judge  
55 or associate circuit judge having jurisdiction to any such representative for the purpose of  
56 enabling the representative to make such inspection;

57 (10) Require each hazardous waste generator located within this state and each

58 hazardous waste generator located outside of this state before utilizing any hazardous waste  
59 facility in this state to file a registration report containing such information as the commission  
60 by regulation may specify relating to types and quantities of hazardous waste generated and  
61 methods of hazardous waste management, and to meet all other requirements placed upon  
62 hazardous waste generators by sections 260.350 to 260.430 and the standards, rules and  
63 regulations and orders adopted or issued pursuant to sections 260.350 to 260.430;

64 (11) Require each hazardous waste transporter operating in this state to obtain a license  
65 and to meet all applicable requirements of sections 260.350 to 260.430 and the standards, rules  
66 and regulations, orders and license terms and conditions adopted or issued pursuant to sections  
67 260.350 to 260.430;

68 (12) Require each hazardous waste facility owner and operator to obtain a permit for  
69 each such facility and to meet all applicable requirements of sections 260.350 to 260.430 and the  
70 standards, rules and regulations, orders and permit terms and conditions adopted or issued  
71 pursuant to sections 260.350 to 260.430;

72 (13) Issue, continue in effect, revoke, modify or deny in accordance with the standards,  
73 rules and regulations, hazardous waste transporter licenses and hazardous waste facility permits;

74 (14) Encourage voluntary cooperation by persons or affected groups to achieve the  
75 purposes of sections 260.350 to 260.430;

76 (15) Enter such order or determination as may be necessary to effectuate the provisions  
77 of sections 260.350 to 260.430 and the standards, rules and regulations, and license and permit  
78 terms and conditions adopted or issued pursuant to sections 260.350 to 260.430;

79 (16) Enter such order or cause to be instituted in a court of competent jurisdiction such  
80 legal proceedings as may be necessary in a situation of imminent hazard, as prescribed in section  
81 260.420;

82 (17) Settle or compromise as it may deem advantageous to the state, with the approval  
83 of the commission, any suit undertaken by the commission for recovery of any penalty or for  
84 compelling compliance with any provision of sections 260.350 to 260.430 or any standard, rule  
85 or regulation, order, or license or permit term or condition adopted or issued pursuant to sections  
86 260.350 to 260.430;

87 (18) Advise, consult and cooperate with other agencies of the state, the federal  
88 government, other states and interstate agencies and with affected groups, political subdivisions  
89 and industries in furtherance of the purposes of sections 260.350 to 260.430 and, upon request,  
90 consult with persons subject to sections 260.350 to 260.430 on the proper measures necessary  
91 to comply with the requirements of sections 260.350 to 260.430 and rules and regulations  
92 adopted pursuant to sections 260.350 to 260.430;

93 (19) Encourage, coordinate, participate in or conduct studies, investigations, research and

94 demonstrations relating to hazardous waste management as it may deem advisable and necessary  
95 for the discharge of its duties pursuant to sections 260.350 to 260.430;

96 (20) Represent the state of Missouri in all matters pertaining to interstate hazardous  
97 waste management including the negotiation of interstate compacts or agreements;

98 (21) Arrange for the establishment, staffing, operation and maintenance of collection  
99 stations, within appropriations or other funding available therefor, for householders, farmers and  
100 other exempted persons as provided in section 260.380;

101 (22) Collect and disseminate information relating to hazardous waste management;

102 (23) Conduct education and training programs on hazardous waste problems and  
103 management;

104 (24) Encourage and facilitate public participation in the development, revision and  
105 implementation of the state hazardous waste program;

106 (25) Encourage waste reduction, resource recovery, exchange and energy conservation  
107 in hazardous waste management;

108 (26) Exercise all powers necessary to carry out the provisions of sections 260.350 to  
109 260.430, assure that the state of Missouri complies with any federal hazardous waste  
110 management act and retains maximum control thereunder, and receives all desired federal grants,  
111 aid and other benefits;

112 (27) Present to the public, at a public meeting, and to the governor and the members of  
113 the general assembly, an annual report on the status of the state hazardous waste program;

114 (28) Develop comprehensive plans and programs to aid in the establishment of  
115 hazardous waste disposal sites as needed within the various geographical areas of the state within  
116 a reasonable period of time;

117 (29) Control, abate or clean up any hazardous waste placed into or on the land in a  
118 manner which endangers or is reasonably likely to endanger the health of humans or the  
119 environment and, in aid thereof, may cause to be filed by the attorney general or a prosecuting  
120 attorney, a suit seeking mandatory or prohibitory injunctive relief or such other relief as may be  
121 appropriate. The department shall also take such action as is necessary to recover all costs  
122 associated with the cleanup of any hazardous waste from the person responsible for the waste.  
123 All money received shall be deposited in the hazardous waste fund created in section 260.391;

124 (30) Oversee any corrective action work undertaken pursuant to sections 260.350 to  
125 260.430 and rules promulgated pursuant to sections 260.350 to 260.430 to investigate, monitor,  
126 or clean up releases of hazardous waste or hazardous constituents to the environment at  
127 hazardous waste facilities. The department shall review the technical and regulatory aspects of  
128 corrective action plans, reports, documents, and associated field activities, and attest to their  
129 accuracy and adequacy. Owners or operators of hazardous waste facilities performing corrective

130 actions shall pay to the department all reasonable costs, as determined by the commission,  
131 incurred by the department pursuant to this subdivision. All such funds remitted by owners or  
132 operators of hazardous waste facilities performing corrective actions shall be deposited in the  
133 hazardous waste fund created in section 260.391.

319.125. 1. The department may deny or invalidate a certificate of registration issued  
2 under sections 319.120 and 319.123 if the department finds, after notice and a hearing pursuant  
3 to chapter [644] **260**, RSMo, that the owner has:

4 (1) Fraudulently or deceptively registered or attempted to register a tank; or  
5 (2) Failed at any time to comply with any provision or requirement of sections 319.100  
6 to 319.137 or any rules and regulations adopted by the department in accordance with the  
7 provisions of sections 319.100 to 319.137.

8 2. Upon the action of the department to invalidate or refuse to issue a certificate, the  
9 department shall advise the applicant of his right to have a hearing before the [clean water  
10 commission] **Missouri hazardous waste management commission**. The hearing shall be  
11 conducted in accordance with the procedures established in chapter [644] **260**, RSMo.

12 3. When the department finds that a release from an underground storage tank presents,  
13 or is likely to present, an immediate threat to public health or safety or to the environment, it  
14 shall order correction of the problem, order cleanup or institute clean-up operations pursuant to  
15 the provisions of sections 260.500 to 260.550, RSMo.

16 4. If the owner or operator fails to perform or improperly performs any action required  
17 by the department to abate or eliminate an immediate threat to public health or safety or to the  
18 environment, the department or an authorized agent of the department may take any and all  
19 necessary action to abate or eliminate such threat. In addition to any other remedy or penalty  
20 provided by sections 319.100 to 319.137 or any other law, the owner or operator shall be held  
21 strictly liable for the reasonable costs incurred by the department in taking any such action.

22 5. The denial of reregistration or the revocation of registration of any person participating  
23 in the underground storage tank insurance fund shall, upon completion of any appeal, terminate  
24 participation in the fund.

319.127. 1. It is unlawful for any owner or operator to cause or permit any violations  
2 of sections 319.100 to 319.137, or any standard, rule or regulation, order or permit term or  
3 condition adopted or issued hereunder. Except as provided in this section, whenever on the basis  
4 of any information, the department determines that any person is in such violation, the  
5 department may issue an order requiring compliance within a reasonable specified time period,  
6 pursuant to chapter [644] **260**, RSMo, or the department may commence a civil action in a court  
7 of competent jurisdiction in which the violation occurred for appropriate relief, including a  
8 temporary or permanent injunction.



9           2. If an owner or operator fails to comply with an order under this section within the time  
10 specified, the department may commence a civil action in a court of competent jurisdiction for  
11 injunctive relief to prevent any such violation or further violation or for the assessment of a civil  
12 penalty not to exceed ten thousand dollars for each day, or part thereof, the violation occurred  
13 or continues to occur, or both, as the court deems proper. A civil monetary penalty under this  
14 section shall not be assessed for a violation where an administrative penalty was assessed under  
15 section 319.139. The department may request either the attorney general or a prosecuting  
16 attorney to bring any action authorized in this section in the name of the people of the state of  
17 Missouri. Any offer of settlement to resolve a civil penalty under this section shall be in writing,  
18 shall state that an action for imposition of a civil penalty may be initiated by the attorney general  
19 or a prosecuting attorney representing the department under authority of this section, and shall  
20 identify any dollar amount as an offer of settlement which shall be negotiated in good faith  
21 through conference, conciliation and persuasion.

22           3. Any penalty recovered pursuant to the provisions of this section shall be handled in  
23 accordance with section 7 of article IX of the state constitution.

24           4. If the department alleges a violation of law or regulation of sections 319.100 to  
25 319.139, and mandates compliance with such law or regulation by a person or entity, the  
26 department shall provide the person or entity responsible for compliance with such law or  
27 regulation with written criteria detailing exactly what action is necessary for such person or entity  
28 to comply with the law or regulation. The criteria shall include any time restrictions imposed  
29 by the department and shall be prima facie evidence of the action necessary for compliance with  
30 the law or regulation. Any person or entity meeting the criteria shall be deemed to be in full  
31 compliance with the requests of the department and evidence of compliance shall constitute an  
32 affirmative defense in any action brought by or on behalf of the department under the law or  
33 regulation. The criteria may not be amended by the department once issued to the person or  
34 entity responsible for compliance with such law or department regulation for three years from  
35 the date of issuance unless mandated by a change in state or federal law.

319.137. Rules and regulations promulgated by the United States Environmental  
2 Protection Agency under subtitle I of the federal Resource Conservation Recovery Act of 1976  
3 (P.L. 94-580), as amended, may be adopted by the department by reference. The department may  
4 adopt rules and regulations that are more stringent than those issued by the United States  
5 Environmental Protection Agency if such rules or regulations are necessary to protect human  
6 health or the environment. Any such rule shall be adopted only after due notice and public  
7 hearing in accordance with the provisions of this section, chapter 536, RSMo, and chapter [644]  
8 **260**, RSMo. No rule or portion of a rule promulgated under the authority of sections 319.100  
9 to 319.139 shall become effective unless it has been promulgated pursuant to the provisions of

10 section 536.024, RSMo.

2 [319.137. 1. Rules and regulations promulgated by the United States  
3 Environmental Protection Agency under subtitle I of the federal Resource  
4 Conservation Recovery Act of 1976 (P.L. 94-580), as amended, may be adopted by  
5 the department by reference. The department may adopt rules and regulations that  
6 are more stringent than those issued by the United States Environmental Protection  
7 Agency if such rules or regulations are necessary to protect human health or the  
8 environment. Rules and regulations promulgated under sections 319.100 to 319.139  
9 shall be submitted to and reviewed by the advisory committee established by  
10 subsection 2 of section 319.131 prior to publication. Any such rule shall be adopted  
11 only after due notice and public hearing in accordance with the provisions of this  
12 section, chapter 536, RSMo, and chapter 644, RSMo.

13 2. No rule or portion of a rule promulgated under the authority of sections  
14 319.100 to 319.139 shall become effective until it has been approved by the joint  
15 committee on administrative rules in accordance with the procedures provided  
16 herein, and the delegation of the legislative authority to enact law by the adoption of  
17 such rules is dependent upon the power of the joint committee on administrative rules  
18 to review and suspend rules pending ratification by the senate and the house of  
19 representatives as provided herein.

20 3. Upon filing any proposed rule with the secretary of state, the filing agency  
21 shall concurrently submit such proposed rule to the committee, which may hold  
22 hearings upon any proposed rule or portion thereof at any time.

23 4. A final order of rulemaking shall not be filed with the secretary of state  
24 until thirty days after such final order of rulemaking has been received by the  
25 committee. The committee may hold one or more hearings upon such final order of  
26 rulemaking during the thirty-day period. If the committee does not disapprove such  
27 order of rulemaking within the thirty-day period, the filing agency may file such  
28 order of rulemaking with the secretary of state and the order of rulemaking shall be  
29 deemed approved.

30 5. The committee may, by majority vote of the members, suspend the order  
31 of rulemaking or portion thereof by action taken prior to the filing of the final order  
32 of rulemaking only for one or more of the following grounds:

- 33 (1) An absence of statutory authority for the proposed rule;  
34 (2) An emergency relating to public health, safety or welfare;  
35 (3) The proposed rule is in conflict with state law;  
36 (4) A substantial change in circumstance since enactment of the law upon  
37 which the proposed rule is based;  
38 (5) That the rule is arbitrary and capricious.

39 6. If the committee disapproves any rule or portion thereof, the filing agency  
40 shall not file such disapproved portion of any rule with the secretary of state and the  
41 secretary of state shall not publish in the Missouri Register any final order of  
42 rulemaking containing the disapproved portion.

7. If the committee disapproves any rule or portion thereof, the committee

43 shall report its findings to the senate and the house of representatives. No rule or  
44 portion thereof disapproved by the committee shall take effect so long as the senate  
45 and the house of representatives ratify the act of the joint committee by resolution  
46 adopted in each house within thirty legislative days after such rule or portion thereof  
47 has been disapproved by the joint committee.

48 8. Upon adoption of a rule as provided herein, any such rule or portion  
49 thereof may be suspended or revoked by the general assembly either by bill or,  
50 pursuant to section 8, article IV of the constitution, by concurrent resolution upon  
51 recommendation of the joint committee on administrative rules. The committee shall  
52 be authorized to hold hearings and make recommendations pursuant to the provisions  
53 of section 536.037, RSMo. The secretary of state shall publish in the Missouri  
54 Register, as soon as practicable, notice of the suspension or revocation.]

319.139. 1. In addition to any other remedy provided by law, upon a determination by  
2 the director that a provision of sections 319.100 to 319.137 or a standard, limitation, order, rule  
3 or regulation promulgated pursuant thereto, or a term or condition of any permit has been  
4 violated, the director may issue an order assessing an administrative penalty upon the violator  
5 under this section. An administrative penalty shall not be imposed until the director has sought  
6 to resolve the violation through conference, conciliation or persuasion and shall not be imposed  
7 for minor violations of sections 319.100 to 319.137 or minor violations of any standard,  
8 limitation, order, rule or regulation promulgated pursuant to sections 319.100 to 319.137 or  
9 minor violations of any term or condition of a permit issued pursuant to sections 319.100 to  
10 319.137. If the violation is resolved through conference, conciliation and persuasion, no  
11 administrative penalty shall be assessed unless the violation has caused, or has the potential to  
12 cause, a risk to human health or to the environment, or has caused or has potential to cause  
13 pollution, or was knowingly committed, or is defined by the United States Environmental  
14 Protection Agency as other than minor. Any order assessing an administrative penalty shall state  
15 that an administrative penalty is being assessed under this section and that the person subject to  
16 the penalty may appeal as provided by this section. Any such order that fails to state the statute  
17 under which the penalty is being sought, the manner of collection or rights of appeal shall result  
18 in the state's waiving any right to collection of the penalty.

19 2. The [clean water commission] **Missouri hazardous waste management commission**  
20 shall promulgate rules and regulations for the assessment of administrative penalties. The  
21 amount of the administrative penalty assessed per day of violation for each violation under this  
22 section shall not exceed the amount of the civil penalty specified in section 319.127. Such rules  
23 shall reflect the criteria used for the administrative penalty matrix as provided for in the Resource  
24 Conservation and Recovery Act, 42 U.S.C. 6928(a), Section 3008(a), and the harm or potential  
25 harm which the violation causes, or may cause, the violator's previous compliance record, and  
26 any other factors which the [clean water commission] **Missouri hazardous waste management**

27 **commission** may reasonably deem relevant. An administrative penalty shall be paid within sixty  
28 days from the date of issuance of the order assessing the penalty. Any person subject to an  
29 administrative penalty may appeal to the commission as provided in section [644.056] **260.400**,  
30 RSMo. An appeal will stay the due date of such administrative penalty until the appeal is  
31 resolved. Any person who fails to pay an administrative penalty by the final due date shall be  
32 liable to the state for a surcharge of fifteen percent of the penalty plus ten percent per annum on  
33 any amounts owed. Any administrative penalty paid pursuant to this section shall be handled in  
34 accordance with section 7 of article IX of the state constitution. An action may be brought in the  
35 appropriate circuit court to collect any unpaid administrative penalty, and for attorney's fees and  
36 costs incurred directly in the collection thereof.

37         3. An administrative penalty shall not be increased in those instances where department  
38 action, or failure to act, has caused a continuation of the violation that was a basis for the penalty.  
39 Any administrative penalty must be assessed within two years following the department's initial  
40 discovery of such alleged violation, or from the date the department in the exercise of ordinary  
41 diligence should have discovered such alleged violation.

42         4. Any final order imposing an administrative penalty is subject to judicial review upon  
43 the filing of a petition pursuant to section 536.100, RSMo, by any person subject to the  
44 administrative penalty.

45         5. The state may elect to assess an administrative penalty, or, in lieu thereof, to request  
46 that the attorney general or prosecutor file an appropriate legal action seeking a civil penalty in  
47 the appropriate circuit court.

**319.140. Properties eligible for the petroleum storage tank insurance fund benefits**  
2 **shall not be eligible for state Brownfield redevelopment program incentives established**  
3 **under sections 447.700 to 447.718, RSMo, unless the property owner waives fund benefits.**